

Washington 2005 Legislative Initiatives and Sample Language

The Need for 45-day Ballot Transit Time

The most persistent problem which continues to face Washington military and overseas voters is the extremely short period of time these voters have to receive, vote, and return their absentee ballots in order to be counted. While electronic transmission of election materials offers an alternative to inadequate ballot transit time in emergency situations, the fact remains that insufficient ballot transit time through the mail continues to be the primary obstacle to timely delivery of absentee ballots to voters. Our post-election surveys and Postal Service statistics indicate that a **45-day transit time is needed for absentee ballots sent through international mail or the military APO/ FPO (overseas) post offices**. This round trip transit time is especially necessary because of the remote location of many military personnel and overseas citizens such as sailors and marines aboard ship, airmen and sailors at isolated tracking sites around the world, as well as Department of State personnel and citizen employees of American multinational corporations in remote areas. **Forty-one** states now allow 45-day ballot transit time.

Sample Language

For all elections, the official charged with the printing and distribution of ballots and election materials shall print as many absentee ballots as may be necessary as soon as possible after receiving the information concerning candidates and measures to be voted on at an election, and balloting materials shall be mailed not later than the 45th day before the election.

Late Registration Procedure

We recommend that **Washington allow persons recently separated from the Uniformed Services, the merchant marine or overseas employment, and their family members, to be able to register after the standard registration deadline or be exempt from registration**. Many members of the Uniformed Services, merchant marine and overseas citizens go through a relocation transition period when they separate from service or overseas employment. The timing of their discharge or employment termination may prevent them from meeting Washington's 15-day late registration deadline. We recommend that UOCAVA citizens be permitted to register up to the day of the next ensuing election when these circumstances arise. **Twenty-six** states currently have a late registration procedure.

Sample Language

An individual, or accompanying family member, who has been discharged or separated from the Uniformed Services, the merchant marine, or from employment outside the territorial limits of the United States, too late to enable him or her to register by the regular state deadline, shall be entitled to register up to the day of the next election after such discharge, separation, or termination of employment.

Reference to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) in the State Election Code

In 1986, Congress updated and consolidated the provisions of Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975 into the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. **Reference to UOCAVA in the state election code** will help election officials and interested citizens find guidance to applicable Federal law and increase their familiarity with the statute and its application. We recommend that UOCAVA be referenced in appropriate sections of the state election code. **Thirty-seven** states now reference the UOCAVA in their election code.

Sample Language

This language is usually found under the chapter in the state Election Code that makes reference to Federal elections:

It is the intent and purpose of this Legislature that the provisions set forth in this chapter are designed to facilitate the Federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff et. seq.).

Expand Use of Federal Write-In Absentee Ballot

Currently the Federal Write-In Absentee Ballot (FWAB) may be used only in general elections for Federal offices only. This ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership. By **expanding its use to include special, primary and runoff elections for Federal offices**, citizens would not be disenfranchised because regular ballots are not received in a timely manner. Frequently, there is insufficient time between the call for a special election and the actual election and between primary and runoff elections. Allowing use of the FWAB in these elections would reduce the possible need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During past primaries, on an *ad hoc* basis, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices. **Eleven** states have legislatively expanded the use of the FWAB for other than Federal offices beyond the Federal law.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB transmission envelope as **a request for registration simultaneously with the submission of the FWAB** would simplify the process, improve transit time and help ensure enfranchisement. It should be noted that the information requested on the FWAB transmission envelope is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB transmission envelope and FWAB be accepted simultaneously as a registration form and ballot by the state for general election and Federal offices if:

- (1) the information submitted complies with the state's registration requirements;

- (2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and
- (3) the request is received by the appropriate state election official not less than 30 days before the election, or by the registration deadline established by the state, whichever is later.

The adoption of this initiative would save Washington money, and alleviate administrative responsibilities on the part of the chief election officer.

Sample Language

- Expanded use of the FWAB:

If the voter is residing outside the United States or is a member of the United States Uniformed Services or merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot in general, special, primary, and run-off elections for local, state and Federal offices.

- Use of FWAB as a Combined Request for Registration and Ballot Submission:

If the voter is residing outside the United States, or is a member of the United States Uniformed Services or merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot (FWAB) transmission envelope as a request for registration simultaneously with the submission of the FWAB if:

- (1) *the information submitted complies with the registration requirements of the state;*
- (2) *the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and*
- (3) *the request is received by the appropriate state election official not less than 30 days before the election, or by the registration deadline established by the state, whichever is later.*

Enfranchise Citizens Who Have Never Resided in the U.S.

There are many U.S. citizens who have never resided in the U.S. and under current law are not entitled to vote. These are usually first or second-generation citizens who are subject to U.S. income tax and all other requirements of citizens. Except for the fact that they have never resided in a state, they would be eligible to vote in elections for Federal office.

Thirteen states have passed legislation allowing these citizens to claim the legal residence of a parent. **We recommend these citizens be allowed to vote in elections for Federal offices where either parent is eligible to vote under UOCAVA.**

Sample Language

If a U.S. citizen outside the United States who has never lived in the United States has a parent who is a qualified elector, then that citizen is eligible to register and vote where his or her parent is a qualified elector.

Emergency Authority for Chief Election Official

During a period of a declared emergency or other situation where a short time-frame for ballot transmission is created, it is recommended that **Washington's Chief Election Official have the authority to designate alternate methods for handling absentee ballots** to ensure voters have the opportunity to exercise their right to vote. The Chief Election Official and the Federal Voting Assistance Program could establish expeditious methods for handling absentee ballots including electronic transmission. As an example, in light of the surge of Guard and Reserve forces being deployed, the Chief Election Official can temporarily allow electronics transmission of voting materials for Active Duty Military. **Fifteen** states have passed legislation giving the Chief Election Official authority to designate alternate methods of handling absentee ballots in emergency situation.

Sample Language

The chief election official may exercise emergency powers over any election being held in a district in which either a natural disaster or extremely inclement weather has occurred. The chief election official may also exercise emergency powers during an armed conflict involving *United States Armed Forces, or mobilization of those forces, including State National Guard and Reserve components of this state, the Chief Election Official may prescribe, by emergency orders or rules, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in the state.*

The Chief Election Official shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.